

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	File No.: BALDTA-20130517ADD
Bruno Goodworth Network, Inc.)	Acct. Nos.: 201341420041 and
)	201341420014
)	FRN: 0003783511

ORDER

Adopted: August 23, 2013**Released: August 26, 2013**

By the Chief, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Media Bureau (Bureau) and Bruno Goodworth Network, Inc. (Licensee). Currently pending before the Commission are applications to assign the licenses of the ten stations listed in Schedule A of the attached Consent Decree to OTA Broadcasting (PIT), LLC. On March 25, 2011, letters were sent to the licensee regarding the failure of five stations (WBGN-CD, Pittsburgh, PA; WNNB-CD, Beaver, PA; WPCP-CD, New Castle, PA; WJMB-CD, Butler, PA; and WEMW-CD, Greensburg, PA) included among the pending assignment applications to timely file FCC Form 398 Children's Programming Reports.¹ In addition, on May 21, 2013, the Video Division issued a Notice of Apparent Liability to Station WJPW-CD, which is also included among the assignment applications, for failure to timely file its Children's Television Programming Reports for a period in excess of 21 quarters.² Staff records also indicate late-filed Children's Programming Reports at four other stations (WKHU-CD, Kittanning, PA; WMVH-CA, Charleroi, PA; WWKH-CA, Uniontown, PA; and WWLM-CA, Washington, PA) included in the pending assignment applications. Additionally, all ten stations listed in Schedule A were silent for periods during which requests for authority to remain silent were filed with but not granted by the Commission.

2. The Bureau and the Licensee have negotiated the terms of the Consent Decree that concludes the above-referenced matters. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree. A copy of the Consent Decree is attached and incorporated by reference.

3. In the absence of material new evidence relating to this matter, we conclude that the matters referenced above raise no substantial or material questions of fact as to whether the Licensee possesses the basic qualifications, including those related to character, to hold a Commission license or authorization. We have further examined the pending above-captioned assignment applications and find that the applicants are fully qualified and that grant of the assignment applications are in the public interest, convenience and necessity.

4. Accordingly, **IT IS ORDERED** that, pursuant to Sections 4(i), 4(j), and 503(b) of the Communications Act of 1934, as amended,³ and Sections 0.111 and 0.311 of the Rules,⁴ the Consent Decree attached to this Order **IS ADOPTED**.

¹ See 47 C.F.R. §§ 73.3526(e)(11)(iii) and 73.3526(e)(11)(i).

² *Bruno Goodworth Network, Inc.*, Notice of Apparent Liability for Forfeiture, 28 FCC Red 7441 (Vid. Div. May 21, 2013); *Bruno Goodworth Network, Inc.*, Forfeiture Order, DA 13-1585 (Vid. Div. Jul. 18, 2013).

³ See 47 U.S.C. §§ 154(i), 154(j), 503(b).

5. **IT IS FURTHER ORDERED** that the application to assign the licenses of the stations listed in Schedule A from Bruno Goodworth Network, Inc., to OTA Broadcasting (PIT), LLC, File No. BALDTA-20130517ADD, **IS GRANTED**.

6. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by both First Class mail and Certified Mail, Return Receipt Requested, to Licensee's counsel, Peter Tannenwald, Esq., Fletcher, Heald & Hildreth, 1300 N. 17th Street, Suite 1100, Arlington, Virginia, 22209.

FEDERAL COMMUNICATIONS COMMISSION

William T. Lake
Chief, Media Bureau

⁴ See 47 C.F.R. §§ 0.111, 0.311.

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CONSENT DECREE

1. The Media Bureau of the Federal Communications Commission and Bruno Goodworth Network, Inc., by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Bureau's investigation into possible violations of Sections 73.3526(e)(11)(iii) of the Commission's Rules (the "Public File Rule")¹ pertaining to the timely preparation and filing of FCC Form 398 Children's Television Programming Reports on a quarterly basis.

I. DEFINITIONS

2. For the purposes of this Consent Decree, the following definitions shall apply:

- a) "Act" means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
- b) "Adopting Order" means the Order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
- c) "Bureau" means the Media Bureau of the Federal Communications Commission.
- d) "Commission" and "FCC" mean the Federal Communications Commission and all of its bureaus and offices.
- e) "Communications Laws" means, collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which Bruno Goodworth Network, Inc. is subject by virtue of it being a Commission licensee, including but not limited to 73.3526(e)(11)(iii) of the Commission's Rules.
- f) "Effective Date" means the date on which the Bureau releases the Adopting Order.
- g) "Investigation" means the March 25, 2011, letter request for additional information regarding, among other things, the stations' compliance with the Public File Rule; the May 21, 2013, Notice of Apparent Liability issued against Station WJPW-CD; the investigation of potential violations of the Public File by

¹ See 47 C.F.R. § 73.3526(e)(11)(iii).

WVTX-CD, Bridgeport, Ohio (Fac. Id. 68408), and all other matters set forth in paragraphs 4 through 6 herein.

- h) “Bruno Goodworth” means Bruno Goodworth Network, Inc. and its predecessors-in-interest and successors-in-interest.
- i) “Parties” means Bruno Goodworth and the Bureau, each of which is a “Party.”
- j) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- k) “Stations” means the Class A television stations listed in Schedule A.

II. DISCUSSION

3. Section 73.3526 of the Rules requires each commercial broadcast licensee to maintain a public inspection file containing specific types of information related to station operations.² As set forth in subsection 73.3526(e)(11)(iii), each commercial television licensee is required to prepare and place in its public inspection file a Children’s Television Programming Report (FCC Form 398) for each calendar quarter reflecting, *inter alia*, the efforts that it made during the quarter to serve the educational and informational needs of children.³ That subsection also requires licensees to prepare, place in the public file, and file the reports with the Commission by the tenth day after the close of the reporting quarter.

4. On March 25, 2011, the staff issued a letter to five of the stations listed in Schedule A requesting information regarding, among other issues, the stations’ failure to file their Children’s Television Programming Reports in a timely manner.⁴ Our review of the response to the five letters indicates that four stations filed late Children’s Television Programming Reports for multiple quarters. A further review of Commission’s records indicates similarly late-filed Children’s Programming Reports for four other stations listed in Schedule A.⁵

5. The staff conducted a separate investigation involving WJPW-CD, which is also subject to the pending assignment application. On May 21, 2013, the Video Division issued a Notice of Apparent Liability to Station WJPW-CD regarding its failure to file its Children’s Television Programming Reports in a timely manner over a period of 21 quarters.⁶ On July 18, 2013, the Video Division issued a Forfeiture Order, concluding that Bruno Goodworth was liable for a \$9,000 forfeiture for the violations of WJPW-CD.⁷

6. In addition to the above violations, Commission records also indicate that the stations had

² 47 C.F.R. § 73.3526

³ 47 C.F.R. § 73.3526(e)(11)(iii).

⁴ See Letters from Barbara A. Kreisman, Chief, Video Division, to Bruno Goodworth Network, Inc., dated March 25, 2011. Separate letters were issued for WBGN-CD, Pittsburgh, PA; WNNB-CD, Beaver, PA; WPCP-CD, New Castle, PA; WJMB-CD, Butler, PA; and WEMW-CD, Greensburg, PA.

⁵ Review of Commission records indicates potential violations at the following four stations: WKHU-CD, Kittanning, PA; WMVH-CA, Charleroi, PA; WWKH-CA, Uniontown, PA; and WWLM-CA, Washington, PA.

⁶ *Bruno Goodworth Network, Inc.*, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 7441 (Vid. Div. May 21, 2013).

⁷ *Bruno Goodworth Network, Inc.*, Forfeiture Order, DA 13-1585 (Vid. Div. Jul. 18, 2013).

periods of silence during which requests for authority to remain silent were filed with but not granted by the Commission. Finally, of the ten stations referred to in Schedule A, seven either had incomplete and/or incorrect certifications as to continuing eligibility for Class A Television status, in violation of section 73.3526(e)(17) of the Rules.⁸

III. TERMS OF AGREEMENT

7. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order.

8. **Jurisdiction.** Bruno Goodworth agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and that the Bureau has the authority to enter into and adopt this Consent Decree.

9. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. As of the Effective Date, the Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Commission. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

10. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of the Investigation, Bruno Goodworth agrees to the terms and conditions contained herein. The Bureau further agrees that in the absence of new material evidence, the Bureau will not use the facts developed in this Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any new proceeding, formal or informal, or take any action on its own motion against Bruno Goodworth concerning the matters that were the subject of the Investigation. The Bureau also agrees that in the absence of new material evidence it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against Bruno Goodworth with respect to Bruno Goodworth's basic qualifications, including its character qualifications, to be a Commission licensee or to hold Commission licenses or authorizations, or with respect to the reclassification of any of the stations to low power television status.

11. **Subsequent Investigations.** Nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints or other adjudicatory pleadings filed against Bruno Goodworth or its affiliates for alleged violations of the Act or the Commission's rules or for any other type of alleged misconduct, regardless of when such misconduct took place. The Commission's adjudication of any such complaints will be based solely on the record developed in that proceeding. Except as expressly provided in this Consent Decree, this Consent Decree shall not prevent the Commission from investigating new evidence of noncompliance by Bruno Goodworth with the Communications Laws.

12. **Voluntary Contribution.** Bruno Goodworth agrees that it will make a voluntary contribution to the United States Treasury in the amount of seventy five thousand dollars (\$75,000) by the earlier of ninety (90) days after the Effective Date or the date of consummation of assignment of the station licenses under File Nos. BALDTA-20130517ADD et al.. Bruno Goodworth shall also send

⁸ 47 C.F.R. § 73.3526(e)(17).

electronic notification of payment to Peter Saharko at Peter.Saharko@fcc.gov and David Brown at David.Brown@fcc.gov on the date said payment is made. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.⁹ When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters “FORF” in block number 24A (payment type code). Below are additional instructions you should follow based on the form of payment you select:¹⁰

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

13. **Waivers.** Bruno Goodworth waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order, provided the Bureau issues an Adopting Order as defined herein. Bruno Goodworth shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither Bruno Goodworth nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Bruno Goodworth shall waive any statutory right to a trial *de novo*. Bruno Goodworth hereby agrees to waive any claims it may have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.

14. **Liability.** Bruno Goodworth admits, solely for the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions of paragraph 10 hereof, that the facts discussed in paragraphs 4-6 above constitute violations of Section 73.3526(e)(11)(iii) of the Commission’s rules. Notwithstanding any other provision of this Consent Decree, it is expressly agreed and understood that if this Consent Decree, or paragraph 10 hereof, or both, are breached by the Bureau, or are invalidated or modified to Bruno Goodworth’s prejudice by the Commission, Bureau, or any court, then and in that event the provisions of the immediately-preceding sentence shall be of no force or effect whatever, and Bruno Goodworth shall not, by virtue of that sentence or any other provision of this Consent Decree, be deemed to have made any admission concerning violations of 47 C.F.R. § 73.3526(e)(11)(iii).

⁹ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

¹⁰ Should Bruno Goodworth have questions regarding payment procedures, it should contact the Financial Operations Group Help Desk by phone at 1-877-480-3201, or by e-mail at ARINQUIRIES@fcc.gov.

15. **Invalidity.** In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

16. **Subsequent Rule or Order.** The Parties agree that if any provision of the Consent Decree conflicts with any subsequent rule or order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which Bruno Goodworth does not expressly consent) that provision will be superseded by such rule or Commission order.

17. **Successors and Assigns.** Bruno Goodworth agrees that the provisions of this Consent Decree shall be binding on and inure to the benefit of its successors, assigns, and transferees.

18. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation.

19. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

20. **Paragraph Headings.** The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

21. **Authorized Representative.** The individual signing this Consent Decree on behalf of Bruno Goodworth represents and warrants that he is authorized by Bruno Goodworth to execute this Consent Decree and to bind Bruno Goodworth to the obligations set forth herein. The FCC signatory represents that he is signing this Consent Decree in his official capacity and that he is authorized to execute this Consent Decree.

22. **Counterparts.** This Consent Decree may be signed in any number of counterparts (including by facsimile), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

Media Bureau

By:

William T. Lake
Chief
Media Bureau

Date

Bruno Goodworth Network, Inc.

By:

Ronald J. Bruno
President

Date

SCHEDULE A- STATIONS LICENSED TO BRUNO GOODWORTH NETWORK, INC.
SUBJECT TO ATTACHED ORDER AND CONSENT DECREE

Station	Facility ID Number	Community of License
WBGN-CD	68405	Pittsburgh, Pennsylvania
WNNB-CD	7622	Beaver, Pennsylvania
WPCP-CD	68400	New Castle, Pennsylvania
WJMB-CD	68393	Butler, Pennsylvania
WEMW-CD	68396	Greensburg, Pennsylvania
WKHU-CD	68401	Kittanning, Pennsylvania
WJPW-CD	68407	Weirton, West Virginia
WWLM-CA	267	Washington, Pennsylvania
WWKH-CA	68409	Uniontown, Pennsylvania
WMVH-CA	68394	Charleroi, Pennsylvania